

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

CP No.217/2002 in
OA No.1124/2000

New Delhi this the 23rd day of October, 2002.

HON'BLE MR. M.P. SINGH, MEMBER (ADMNV)
HON'BLE MR. SHANKER RAJU, MEMBER (JUDICIAL)

P.M. Rangasami -Petitioner

(Applicant in person)

-Versus-

1. Secretary, Deptt. of Economic Affairs,
viz. Shri C.M. Vasudeva,
Ministry of Finance,
North Block, New Delhi-1.
2. Secretary, Deptt. of Personnel &
Training, Viz. Sh. A.K. Agarwal,
North Block, New Delhi. -Respondents

(By Advocate Shri R.V. Sinha)

O R D E R

Mr. Shanker Raju, Member (J):

By an order dated 23.10.2000 in OA-1124/2000 directions have been issued to the respondents to consider retaining the applicant in SAG and for further promotion accordingly. It was also observed that only final seniority lists are issued and the case of the applicant for further promotion to SAG will be considered in accordance with the original seniority list which led to his promotion to SAG w.e.f. 7.3.97. Applicant, who appears in person contends that the decision of the Tribunal has been upheld by the High Court of Delhi on 30.9.2002 in CW-1325/2002. Applicant contends that despite making representations the directions have not been complied with and the respondents proceeded to process the case on promotion from SAG to HAG of Indian Economic Service (IES). An order has been issued on 7.5.2002, promoting five officers from SAG to HAG. Applicant's claim has not been considered. Though the applicant in the

original seniority list figures at serial No.65 the officers at serial No.137 and 138 have been promoted. It is contended that the seniority list issued on 5.7.86 should have been adhered to while considering the case of the applicant and as the applicant has already completed five years two months as SAG his supersession is contemptuous.

2. On the other hand, respondents in their reply contended that the grievance of the applicant had arisen on account of implementation of the judgment of the Tribunal dated 7.1.89 in Dr. A.K. Benewal v. Union of India in OA-1206/93. High Court of Delhi was approached in several Writ Petitions and finally the matter by an order dated 14.8.2002 has been remitted back to the Tribunal to be considered on merits afresh.

3. It is contended that the IES cadre has retained applicant in SAG and he was considered for promotion to still HAG in the DPC alongwith others but his name has not been recommended. According to them from grade IV to grade III in IES was changed from selection to non-selection from 7.7.73. As such the general orders of Government of India for providing reservation for SC/ST in non-selection promotion w.e.f. 27.11.72 became applicable in the IES. But Rule 13 of the IES Rules, 1961 did not provide for reservation in promotion which was accordingly amended on 20.2.89 which was further subject to the orders of the Government which were issued from time to time. This retrospectivity of the Rule w.e.f. 27.11.72 was held violative. The judgement was not stayed by the High Court. It is stated that no integrated seniority list in the cadre was notified and the original seniority of the applicant as

8.7.70 when his selection was notified by the UPSC. This integrated seniority list was never circulated for objections.

4. It is stated that the Tribunal directed the respondents to reformulate the seniority in various grades and objections are to be invited and thereafter a final seniority list would be issued. As the integrated seniority has been prepared but as the Writ Petition No.508/99 stood remitted to the Tribunal the case of the applicant would be considered alongwith original seniority which led to his promotion to SAG w.e.f. 7.7.77. As per the seniority list circulated by the cadre on 12.8.94 of officers appointed in HAG are senior to the applicant whereas the applicant figures at serial No.37 in the seniority list and the last officer placed in the HAG was at serial No.26. Accordingly the seniority of the applicant has not been ignored. Last promoted officer in HAG was N.M. Namboothiry who was senior to applicant. As the applicant joined services in 1970 but placed above officers of 1968 and 1969 batch of IES by virtue of his reservation in promotion from Grade-IV to Grade III but failed to retain seniority when his case was considered on 26.2.87 for promotion from STS to JAG where criteria for promotion was based on merit with due regard to seniority. In the select list he was at serial No.41. It is stressed that no person junior to applicant has been promoted. The learned counsel has also produced the minutes of the DPC where the applicant was considered for promotion to HAG but was not recommended. Moreover, the name of the applicant was placed in the panel for the year 1996-97 to SAG of IES and the integrated seniority list issued in 1994 shown the applicant junior.

5. In the rejoinder applicant reiterated his plea taken in the CP and contended that the seniority list of Grade III was notified on 11.6.96 which is the original seniority list. The order of the Tribunal has been ignored in effecting promotions to HAG as juniors of the applicant in the original seniority of Grade III have been promoted.

6. We have carefully considered the rival contentions of the parties and perused the material on record.

7. Having regard to the directions issued by the Tribunal in OA-1124/2000 as the integrated seniority could not be finalised due to remittance of the case by the High Court for fresh consideration in A.K. Belwal's case till settlement of final seniority list the further promotion would have to be considered in HAG on the basis of the original seniority which led to promotion of SAG w.e.f. 7.3.97. We find from the record of the DPC that in the seniority list which has been considered to promote the applicant in SAG is not the seniority list of 1986 but the draft seniority list of 12.8.94 wherein the applicant was junior and none of his juniors have been promoted as HAG by the DPC in 2002. Moreover the issue whether the original seniority list for the purpose of promotion to SAG held in 1997 as 1986 seniority list or whether issued in 1994 has not been adjudicated upon in the earlier OA and constitutes a fresh case of action which cannot be gone into in a contempt petition. As the respondents have considered the case of the applicant for promotion in HAG we do not find any wilful disobedience on their part. Accordingly CP is dismissed and notices are discharged. However, this will

not preclude the applicant from taking up the appropriate proceedings in accordance with law in the light of the decision of the Apex Court in J.S. Parihar v. Ganpat Duggar, JT 1996 (9) SC 611.

S. Raju

(Shanker Raju)
Member (J)

MPS

(M.P. Singh)
Member (A)

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